

REPORT - PLANNING COMMISSION MEETING
June 24, 2004

Project Name and Number: Housing Implementation Program 19
(PLN2004-00112, PLN2004-00279, 2004-00280)

Applicant: City of Fremont

Proposal: To consider a City-initiated General Plan Amendment and Rezoning application to allow multi-family housing on multiple parcels totaling 36.51 acres, make single-family residential use a conforming use on 1.53 acres, and bring into zoning and general plan conformance a public facility parcel of land located in three separate areas of the city, as follows:

Site 1: (PLN2004-00112) This area is removed from consideration at this time.

Site 2: To re-designate 26 parcels (PLN2004-00279) consisting of approximately 30.79 acres of land, mostly in the I-L (Light Industrial) District to: (a) High Density Residential (23 – 27 du/ac) for 41655, 41791, 41868, 41829, 41875, 41911, 41965, the westerly portion of 42000, 42111 and 42183 Osgood Road; (b) Very High Density Residential (27 – 35 du/ac) for the easterly portion of 42000, 42028, 42088, 42218, 42270 [2 parcels], 42282 and 42536 Osgood Road; and (c) Low Density Residential (5 – 7 du/ac) for 41646, 41688, 41700, 41742, 41753, 41760 and 41786 Osgood Road. (41646 Osgood is currently zoned C-G [General Commercial]). A rezoning to, respectively, (a) R-3-27, (b) R-3-35 and (c) R-1-6 is also proposed. Additionally, rezoning of the southerly 150.86 feet of Assessor's Parcel No. 525-345-32-8 (owned by BART) is proposed to conform to the zoning of the remainder, which is P-F (Public Facility).

Site 3: To re-designate one parcel (PLN 2004-00280) consisting of approximately 5.72 acres of land at 1760 Mowry Avenue at the Fremont BART station from a combination of Central Business District and Public Facility in the General Plan to Very High Density Residential (42.5 to 50 du/ac). The project also includes rezoning of the site from the CBD (Central Business District) and OS (Open Space) district to the R-3-50 district.

Recommended Action: Recommend to City Council Site 2 and Site 3

Location: **Site 1 (PLN2004-00112)**, as noted above, is being removed from consideration at this time. **Site 2 (PLN2004-00279)** consists of approximately 30.79 acres of land on multiple parcels located on Osgood Road between Washington Avenue to Blacow Road, in the Irvington Planning Area. **Site 3 (PLN2004-00280)** consists of approximately 5.72 acres and is located at 1760 Mowry Avenue, near Waterside Circle, in the Central Planning Area.

Assessor Parcel Numbers:

Site 1: Not recommended for consideration at this time.

Site 2: (a) 525-342-2; 525-342-4; 525-345-21-2; 525-342-5; 525-342-6-2; 525-339-1-2; 525-339-2; 525-336-1-2; 525-339-4-4; 525-339-4-6; (b) 525-336-1-1; 525-336-3-2; 525-336-2-8; 525-336-5; 525-336-2-3; 525-336-6-8; 525-336-7-14; 525-336-7-16; (c) 525-345-31-2; 525-345-32-9; 525-345-29-2; 525-345-27-2; 525-342-3; 525-345-26-2; 525-345-25-2; 525-345-32-8

Site 3: 501-120-422

Area: +/- 36.51 Acres

Owners: **Site 2:** Arena Capital LLC; BART; Daryl & Joan Bauer; Ludwig & Waldtraut Betchart Trust (4 parcels); Joseph & Katherine Elam (2 parcels); Jerry & Sharon Foster (3 parcels); Tony Goncalves; Masaru & Kyoto Hatsushi; Marion & Vivian Hermoso; Patrick & Carmel Karrick; Jenny Liu; Steven Mumford; Ora Nielsen & Tammy Robertson; Gloria Roberson (2 parcels); Gerald Secrest; Robert Sommer; Brian & Bienvenida Tan; Mary Timmons Trust; R.L. Townsend; Mary Wolfe Trust
Site 3: BART

Agent of Applicant: None

Consultant(s): None at this time

Environmental Review: A Mitigated Negative Declaration was prepared and circulated for this project.

Existing General Plan: **Site 2:** Light Industrial and Public Facility
Site 3: Central Business District

Existing Zoning: **Site 2:** I-L, C-G
Site 3: CBD

Existing Land Uses: Vacant and underutilized lands with the following uses:
Site 2: Single-family homes; storage rental; reclamation company; tutoring center; dancing school; demolition contractor; gardening service; construction company; lumber company; highway safety product sales
Site 3: off-street parking

Public Hearing Notice: Public hearing notification is applicable. A total of 580 notices were mailed to owners of property within 300 feet of the site for each Site area. The notices to owners and occupants were mailed on May 11, 2004 for all three sites. A Public Hearing Notice was delivered to The Argus on May 24, 2004 to be published by May 27, 2004. A courtesy notice detailing the sites removed from consideration at this time was also sent to anyone who spoke at the June 10, 2004 meeting, anyone who wrote to the Planning Commission regarding the removed sites and owners and occupants within 300 feet of the removed sites. These courtesy notices were mailed on June 17 and 18, 2004.

Executive Summary: This proposal implements a portion of Program 19 (Redesignation of Lands Along Transit Corridors) of the certified Housing Element. Program 19 consists of the rezoning and redesignation of residentially-designated, industrially-designated, and commercially-designated properties to accommodate increased densities for the production of housing. Also, it is proposed to make the zoning conform with, respectively, single-family residential use, and public facility use. Staff has identified an initial 29 parcels for redesignation and/or rezoning to implement the goals, policies and programs set forth in Program 19. Twenty parcels are being proposed for redesignation and rezoning to allow higher densities, while seven other parcels are being proposed for rezoning only to the appropriate R-1-6 designation that conforms with existing low density residential use. The remaining rezoning is for the purpose of making the whole of the site conform to its Public Facility use. It is anticipated that additional sites will be identified under this Program and subsequently brought before the Planning Commission and City Council in 2004 for further consideration.

Staff is requesting that the Planning Commission recommend approval of the proposed Mitigated Negative Declaration and the redesignations and rezonings to the City Council.

Background: The City is charged by State statute with responsibility for updating its Housing Element. A Housing Element is a planning document (part of the General Plan) that guides the City's housing efforts. The Element not only provides general goals, objectives and policies but must also propose implementation programs to meet the stated goals and objectives. The Housing Element must also address the City's allocation of housing needs prepared by the Association of Bay Area Governments. The Association of Bay Area Governments (ABAG) has determined the 1999-2006 Regional Housing Needs Distribution Allocation for all Bay Area cities and counties, including Fremont. The total housing

need for Fremont is 6,708 units (revised to 4,912 as set forth in the Housing Element). This allocation is based upon ABAG's projections of the City's share of regional job growth and household growth during the 1999-2007 period.

Existing law requires the State Department of Housing and Community Development (HCD) to evaluate the programs in the housing element for consistency with State law. Those programs include the identification of sites to be made available to encourage the development of a variety of types of housing for all income levels.

On February 12, 2002, the City Council adopted a new Housing Element to replace the previously adopted (May 1991) Element. The City received comments from the State Department of Housing and Community Development (HCD) on June 3, 2002, stating that revisions were necessary prior to State certification. Since June of 2002, staff worked to revise the Housing Element to respond to HCD comments. Council adopted the revised Housing Element on May 13, 2003. On July 17, 2003, HCD informed the City of Fremont that the Housing Element adopted by the City Council on May 13, 2003 was found in compliance with State housing element law. HCD reiterated the need to meet the established timeframes. The City submitted an annual report to HCD on the progress in implementing identified Housing Element programs on October 1, 2003. The next report will be due on October 1, 2004.

At the June 10, 2004 Planning Commission meeting, there were a number of concerns raised by interested Fremont residents about several of the sites being considered for Housing Element programs 18, 19 and 21 during the public hearing. As a result, staff will be recommending that the Planning Commission remove several more sites from consideration on the agenda of the June 24, 2004, Planning Commission meeting. One of those sites is included in Program 19:

Site 1 (PLN2004-00112): approximately 1.51 acres located at 41223 and 41239 Roberts Avenue in the Irvington Planning Area which is not proposed for consideration at this meeting.

Staff will recommend that no action be taken on Site 1 at this time in order to allow staff an opportunity to further evaluate the site and to continue discussions about that site with interested community members. Sites 2 and 3 will still be reviewed by the Planning Commission.

Project Description: Staff proposes the redesignations and/or rezonings of 27 properties to carry out the implementation of Program 19 of the Housing Element. This is one of three, Programs 18, 19 and 21, that are being considered this evening as part of the second grouping of redesignations and rezonings required to implement strategies of the Housing Element related to increasing opportunities for the production of housing in Fremont. This staff report covers Program 19 only.

In this Program, the Housing Element provides that under-utilized lands in transit corridors (within ½-mile of an existing or planned transit stop), should be considered as opportunity sites for additional housing. During the preparation of the Housing Element, the City identified approximately 57.5 acres in different Planning Areas that fell under this category. In order to make the process of re-designation manageable, staff is proposing to bring forth groupings of sites in several cycles during 2004. The first cycle includes 27 sites on approximately 36.51 acres that are located in the Irvington and Central Planning Areas as indicated in the "Location" section above.

Sites 2 and 3 that have been identified for redesignation and rezoning at this time are included as Exhibits to this Report. Exhibits labeled "A" identify the proposed General Plan redesignations and Exhibits labeled "B" identify the proposed rezonings for the subject sites. The following is a description of Sites 2 and 3 including proposed redesignations and rezonings:

Site 2 (PLN2004-00279) consists of approximately 30.79 acres of land located in twenty-six separate parcels on Osgood Road, between the Gallegos Winery historic property on the southeast corner at Washington Blvd. southward to Blacow Road. The sites are developed with single-family homes and various commercial and light industrial businesses as specified in "Existing Land Uses" above. These sites are currently designated as Light Industrial and would be permitted to develop residential densities at either the 23 – 27 du/ac or 27--35 du/ac as detailed in the "Proposal" section above. Certain existing single-family dwellings would become conforming uses on primarily the northeasterly portion of this Site. These parcels are smaller than most other properties and already

developed close to the density range for single-family residential. These too are currently zoned Light Industrial except for 41646 Osgood which is zoned General Commercial. The proposal also includes rezoning a portion of a BART-owned parcel to the Public Facility district, which would bring the zoning in conformance with the General Plan designation.

Land uses surrounding this site include light industrial and commercial to the north and south, and low- and medium-density residential to the east and west.

Site 3 (PLN2004-00280) consists of approximately 5.72 acres and is located at 1760 Mowry Avenue at Waterside Circle. The existing use on the site is off-street parking for the Fremont BART station. The proposal is to amend the existing General Plan land use designation from Central Business District to Very High Density Residential (42.5 - 50 du/ac).

Surrounding land uses include additional off-street parking and BART track to the south and west, medium- to high-density residential to the east and north.

Analysis:

Program 19 includes sites that, by nature of their location in a transit corridor and their vacant and under-utilized status, are prime candidates for redesignation to designations that allow higher residential densities.

A general plan amendment is required to establish residential use conformity on Sites 2 and 3, and also necessary for the proposed zone change for the portion of the BART-owned parcel, APN # 525-345-32-8. The proposed general plan amendments and corresponding rezonings will result in the sites having high- and very high-density residential designations, as identified in Exhibits "A" and "B".

General Plan Conformance: The proposed General Plan Amendment will propose the establishment of residential use at Sites 2 and 3. The following General Plan Goals, Objectives and Policies are applicable to the proposed designations:

Fundamental Goal H3: *Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the city consistent with the Hill Area Initiative of 2002.*

Land Use Policy 1.9: *To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial streets, and a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated on the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the City's goals. The City therefore established a minimum required density of development for all medium and high density residential uses as follows:*

- *When the residential range is between 6.5 and 70 units per acre (ranges 8 – 15), and a development application has not been deemed completed for processing under the provisions of the Permit Streamlining Act by July 1, 2003, the minimum density of the project must be at the midpoint of the density range.*
- *When calculation of the midpoint density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number.*

Reduction in the midpoint density may be approved when environmental constraints or historic preservation goals preclude achievement of the midpoint density.

If the property proposed for development contains a Primary Historic Resource, or is listed on the State or National Register of Historic Places, or is determined by the City Council through recommendation from HARB to possess historic significance then minimum density may be waived.

Housing Program
Implementation 19:

Redesignation of Land Along Transit Corridors. *The City will encourage the development of medium to very-high density developments within ½-mile of an existing or planned transit stop. Such sites will be viewed as opportunities for increased densities and/or redesignation/rezoning of non-residential land for medium to very-high density residential use. Transit corridors include the Bay Area Rapid Transit (BART), Altamont Commuter Express (ACE), Capital Corridor rail lines and Alameda/Contra Costa Transit (AC Transit) and Santa Clara Valley Transit Authority (SCTVA) transit lines. Sites to be evaluated include sites within ½-mile of existing or planned transit stops as identified in Appendix E.*

The proposed general plan amendments to accommodate and/or establish additional densities on the sites are consistent with these land use policies and implementation strategy because redesignation of sites will allow increased opportunities for the production of medium and high density housing where appropriate, will accommodate residential uses at the minimum established mid-point density ranges, and will implement key Housing Program Strategies that are intended to facilitate the production of new housing in the City of Fremont.

Zoning Regulations: The sites currently have I-L and C-G (Site 2) and CBD (Site 3) zoning classifications. Future development on these sites will be based upon the development standards of the R-3 zoning district, except for the R-1 zoning changes proposed for a portion of Site 2.

Zoning District Analysis:

R-3 District:

The Housing Element Program #11 in Chapter 8 called for the creation of a new multi-family zoning district classification of R-3 to replace the old “step density” districts. The City Council adopted this new classification in the summer of 2003, which includes minimum density requirements for medium- through very high-density multi-family developments and establishes a requirement that all projects must meet a minimum mid-point density for approval. In addition, it includes more flexible development standards that provide incentives to developments that help achieve the goals for higher densities and affordable projects. The high end of the density range is indicated in the zoning label for each parcel. The proposed residential zoning designations are R-3-27, R-3-35 and R-3-50. Most of Site 2 and all of Site 3 are proposed for such redesignation.

The Initial Study for the project identified potential heritage trees and potential historic resources in the form of single-family homes on a parcel included in Site #2. Arborist and historical resource survey(s) shall be conducted by qualified personnel to identify the significance of each of the potential resources. Additionally, some Site 2 properties are located within a 100-Year flood plain and others within a Seismic Hazard Fault Zone. None of these issues would preclude development of the properties. Such environmental factors may be used as relief from achieving the midpoint minimum density when a specific development is proposed. In accordance with the requirements of the Housing Element, the process for approval of new construction will also require Site Plan and Architectural Review by the Planning Commission in certain circumstances and the Development Organization in others.

R-1 District:

One potential historic resource was preliminarily evaluated and thought to be of sufficient value to hold to a single-family residential unit density of R-1-6 to enhance preservation potential. Other properties also improved with single-family dwellings are likewise proposed for the same zoning designation, to remove their nonconforming use status in the Light Industrial (and in the case of 41646 Osgood, nonconforming regarding its General Commercial designation).

Property owner outreach: All owners of property within all three sites in Program 19 were mailed notices on April 13, 2004 regarding the City's intent to consider their property in this redesignation/rezoning effort. The Planning Division held an informational workshop for property owners in April 2004. Two owners of property in Program 19 attended the meeting. Staff has contacted property owners directly, where phone contact information was available. In general, property owners are supportive of the proposed redesignations. As indicated in the Analysis Section above, discussions with some of the property owners have prompted some changes to the original proposed redesignations.

Public Contact: Staff has received several phone calls from property owners in Site 2/PLN2004-00279 (Osgood Road), and an email from a resident in the vicinity of Site 3/PLN2004-00280 (1760 Mowry Avenue). This written correspondence received by the City has been included as an enclosure.

Comments expressed at the meeting included concerns from some property owners over the perceived loss of industrial land use expansion potential. While it is true that such land uses would become nonconforming and subject to the nonconforming regulations of Article 23, no "sunset" provision would be instituted as a result of this project. Legally established uses can remain unless and until the owner seeks to develop.

Environmental Analysis: An Initial Study and Mitigated Negative Declaration have been prepared for this project. A finding is proposed that this project would not have a significant effect on the environment. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission and City Council. The review period for the Initial Study and Mitigated Negative Declaration began on May 10, 2004 and concluded on June 11, 2004. The Planning Commission may make a recommendation on the Draft Mitigated Negative Declaration based on comments made up to the time of the Planning Commission meeting. If any comments are received after the Planning Commission meeting, responses will be provided to the Council prior to their action.

A Response to Comments document has been prepared to respond to comments received, either written or at the public hearing, as they pertain to the Initial Study and Mitigated Negative Declaration. It is attached for your review.

The Initial Study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on any wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Pursuant to staff's recommendation not to proceed with consideration of Site 1 as identified in the "Proposal" and "Background" sections, the Commission's recommendation on the Mitigated Negative Declaration should exclude Site 1 properties at this time.

Response from Agencies and Organizations:

Program #19 was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. The agency responded with no comment on the proposed project.

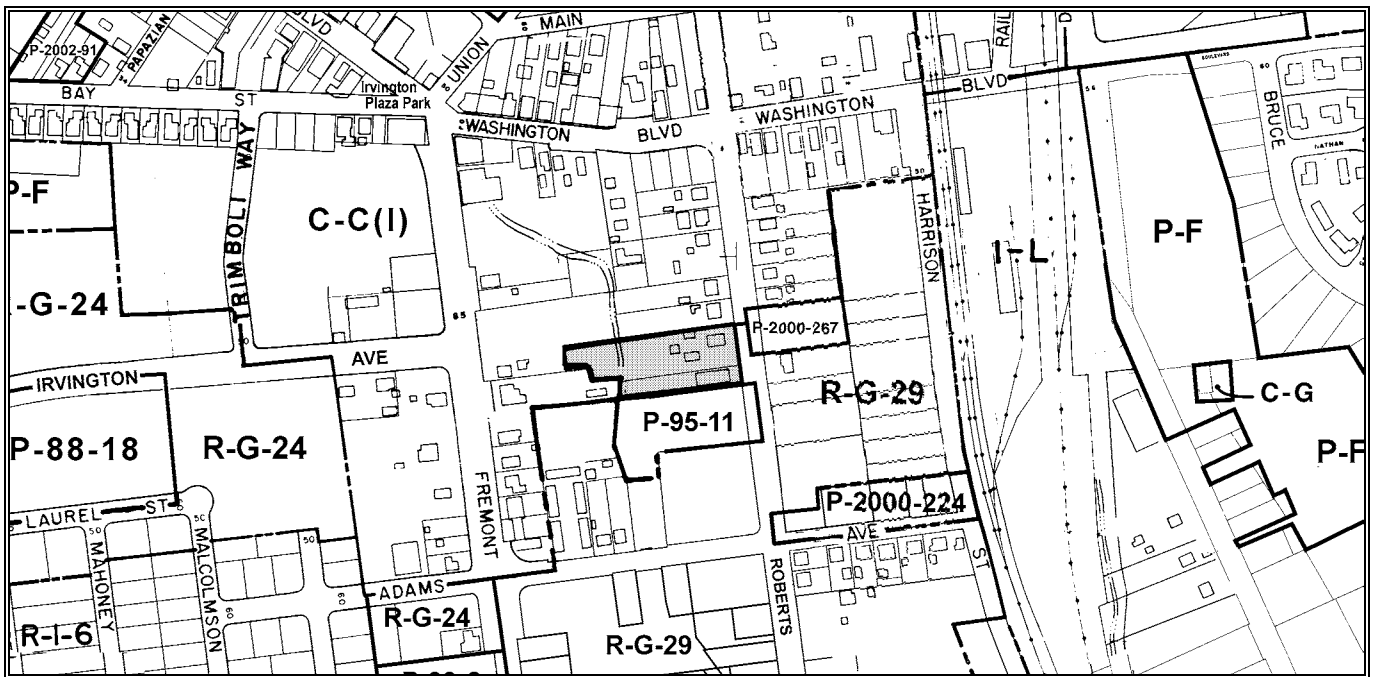
Exhibits:	Exhibit "A 2"	General Plan Exhibit – Site #2 (PLN2004-00279)
	Exhibit "B 2"	Zoning Exhibit – Site #2
	Exhibit "A 3"	General Plan Exhibit – Site #3 (PLN2004-00280)
	Exhibit "B 3"	Zoning Exhibit – Site #3

Enclosures: Initial Study and Draft Mitigated Negative Declaration and Mitigation Monitoring Program
Correspondence
Response to Comments
Aerial Photos (Color aerials available on website)

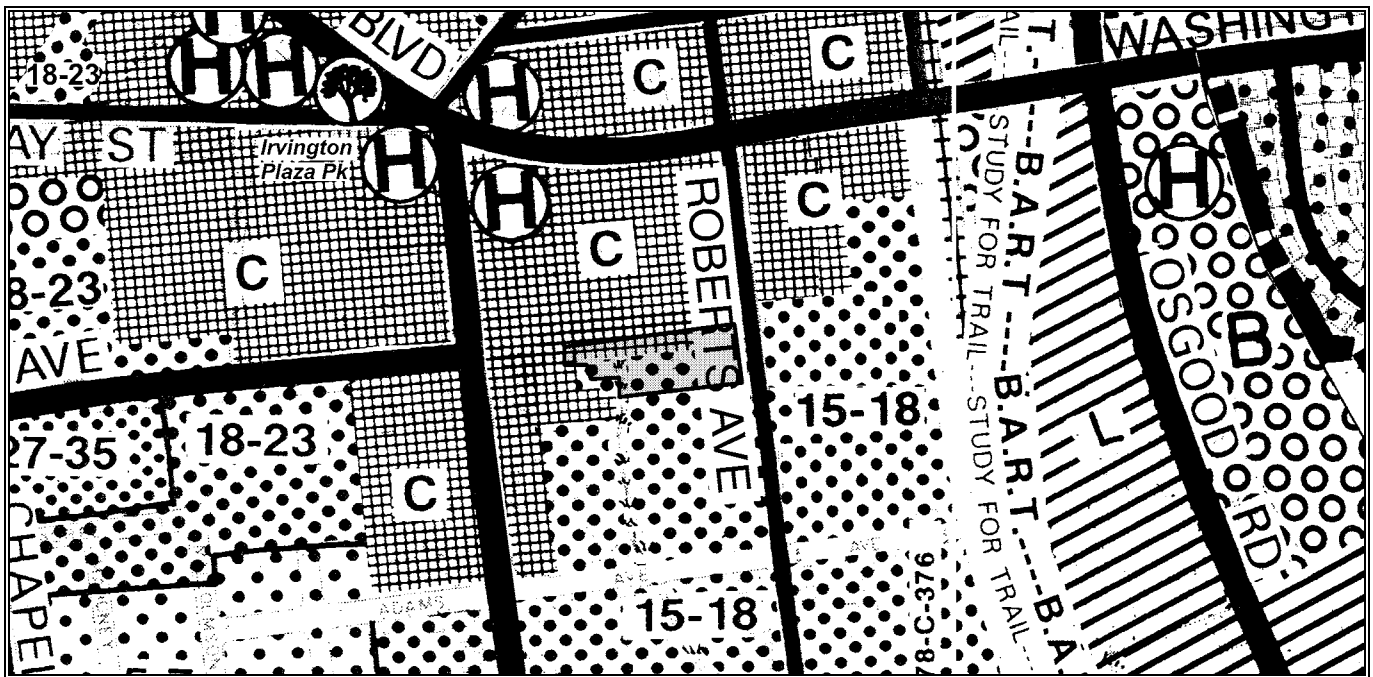
Recommended Actions:

1. Take no action on Site 1 (PLN2004-00112) to re-designate two parcels consisting of approximately 1.51 acres of land at 41223 and 41239 Roberts Avenue.
2. Hold public hearings on Site 2 and Site 3.
3. Recommend that, based on the information contained in the initial study, staff report, and testimony at the public hearing, the City Council find the initial study has evaluated the potential for this project, as regards Site 2 and Site 3, to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
4. Recommend that the City Council approve a Mitigated Negative Declaration and find it reflects the independent judgment of the City of Fremont for Site 2 and Site 3.
5. Find that the General Plan Amendments, and the rezoning to R-1-6, R-3-27, R-3-35, R-3-50 and PF Districts for Site 2 and Site 3 are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report.
6. Recommend that the City Council approve PLN2004-00279 and PLN2004-00280 to amend the General Plan land use diagram to designate Sites 2 and 3 with the changed and/or additional residential land use designations, and rezone them to R-1-6, R-3-27, R-3-35 and R-3-50 as shown on the attached Exhibits as enumerated above.

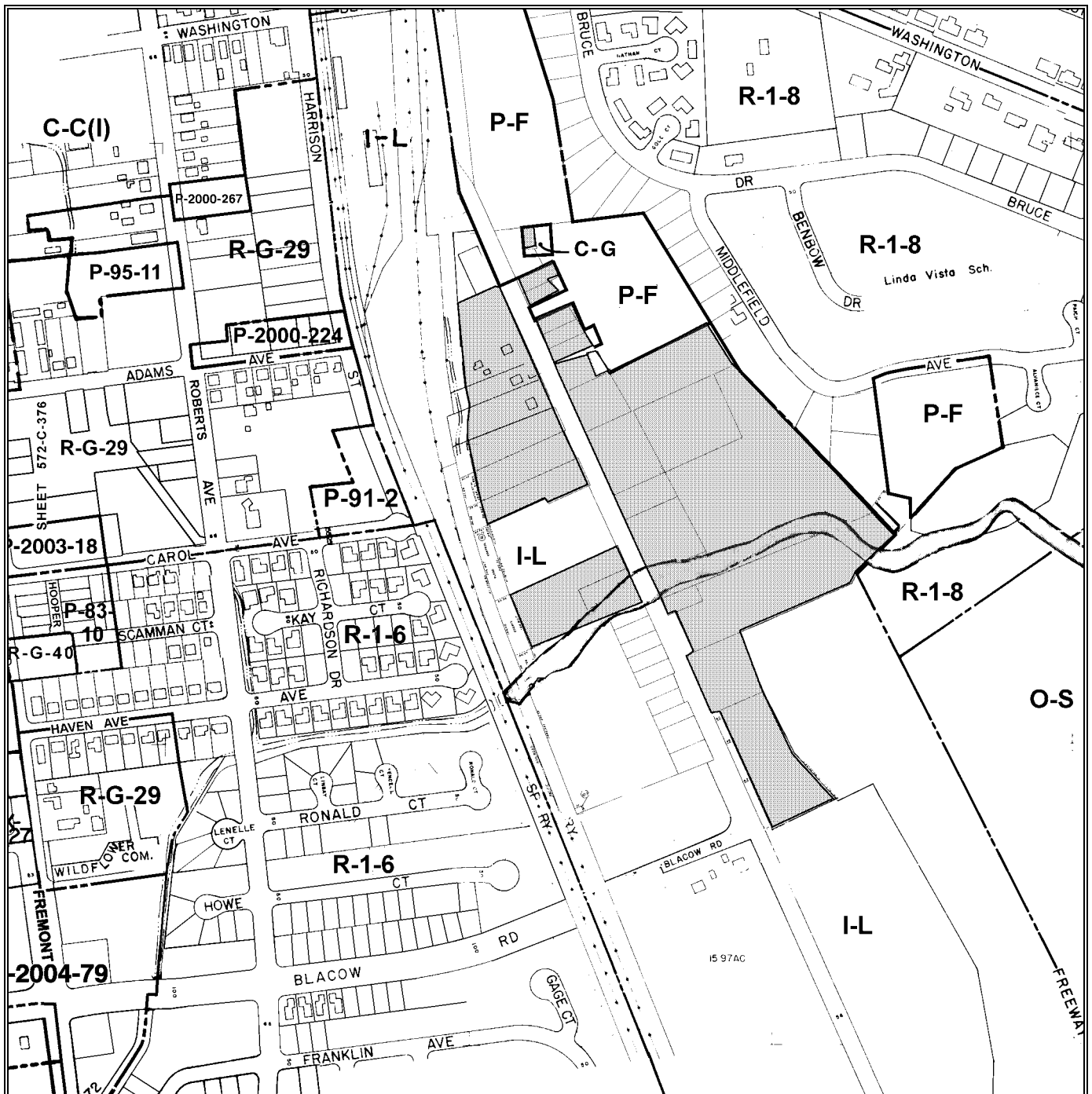
Site 1
Existing Zoning
Shaded Area represents the Project Site



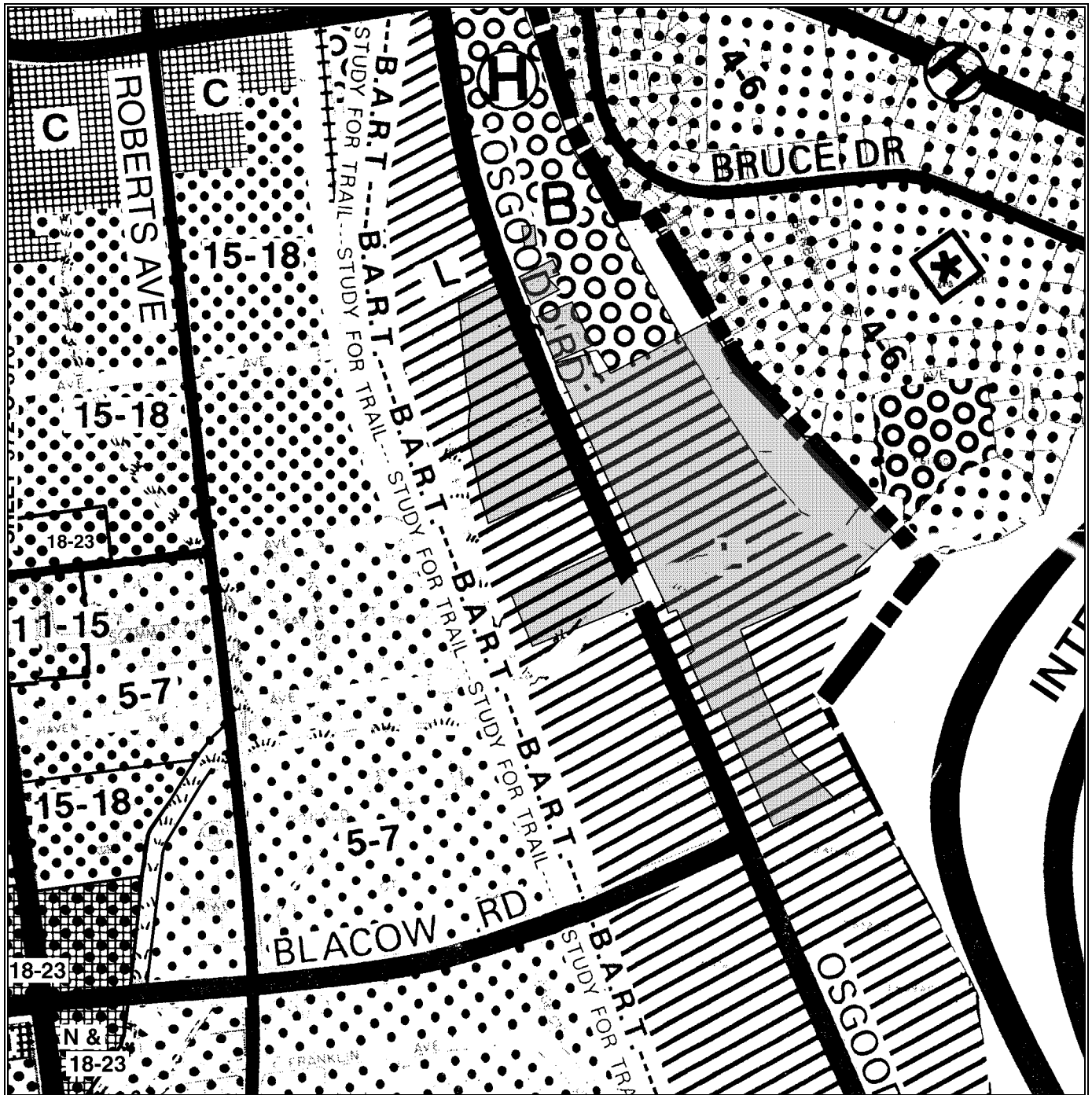
Existing General Plan



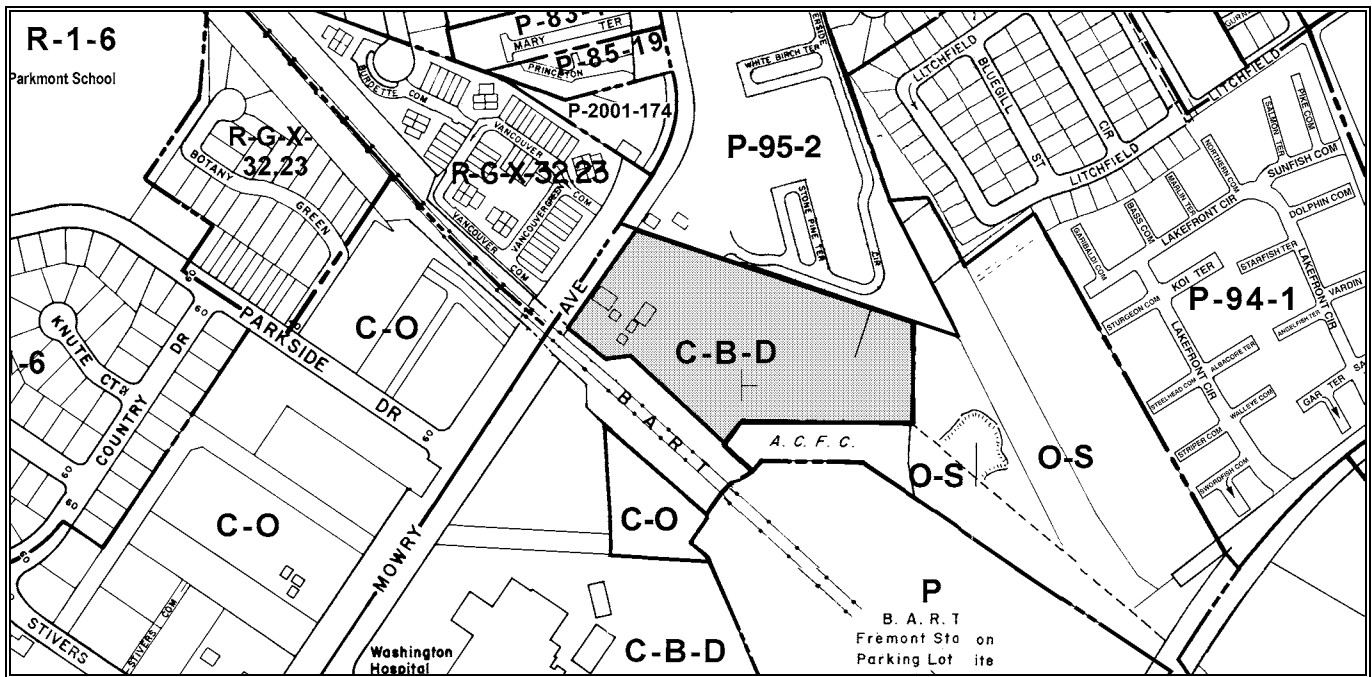
Site 2
Existing Zoning
Shaded Area represents the Project Site



Site 2
Existing General Plan



Site 3
Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

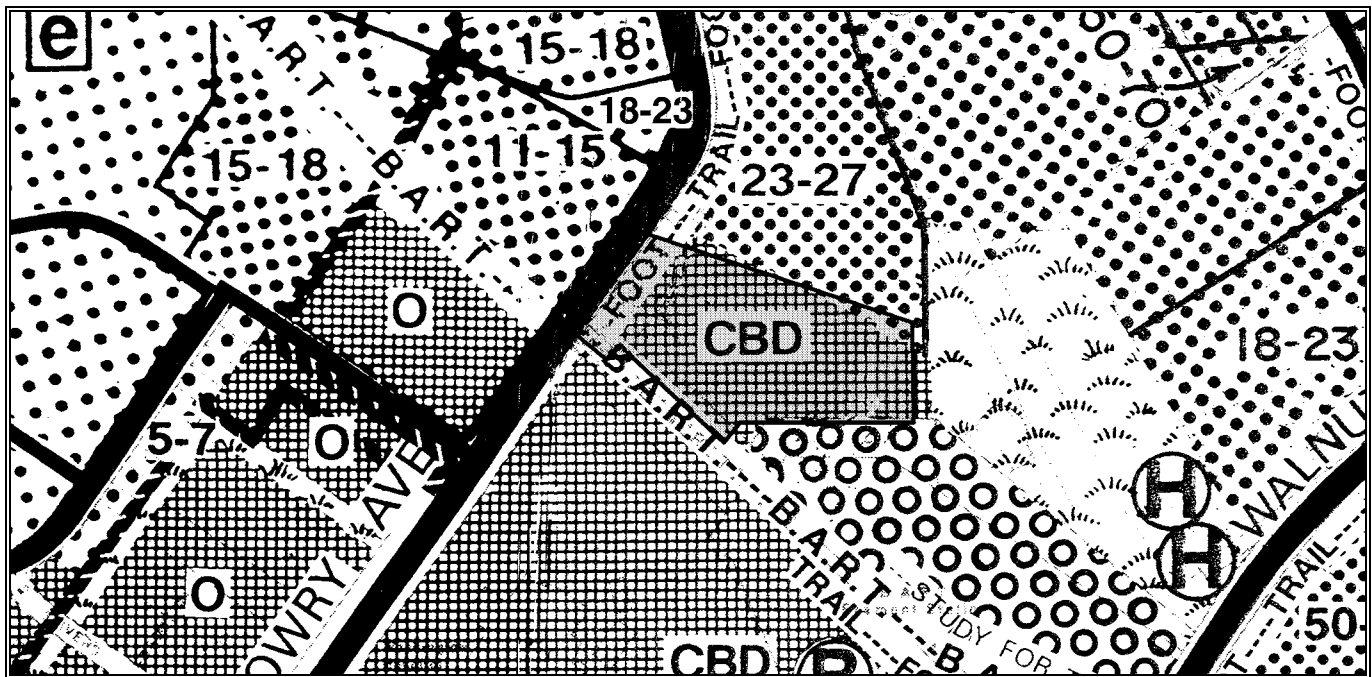


EXHIBIT "A"

Attached to and made a part of

Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 04 .

GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



From: Light Industrial

To: Residential, Low 5-7 du/ac, Residential, High 23-27 & 27-31 du/ac, P-F

Project Name: Housing Element Implementation Program #19

Project Number: PLN2004-00279 (GPA)

BT

EXHIBIT "B"

Attached to and made a part of

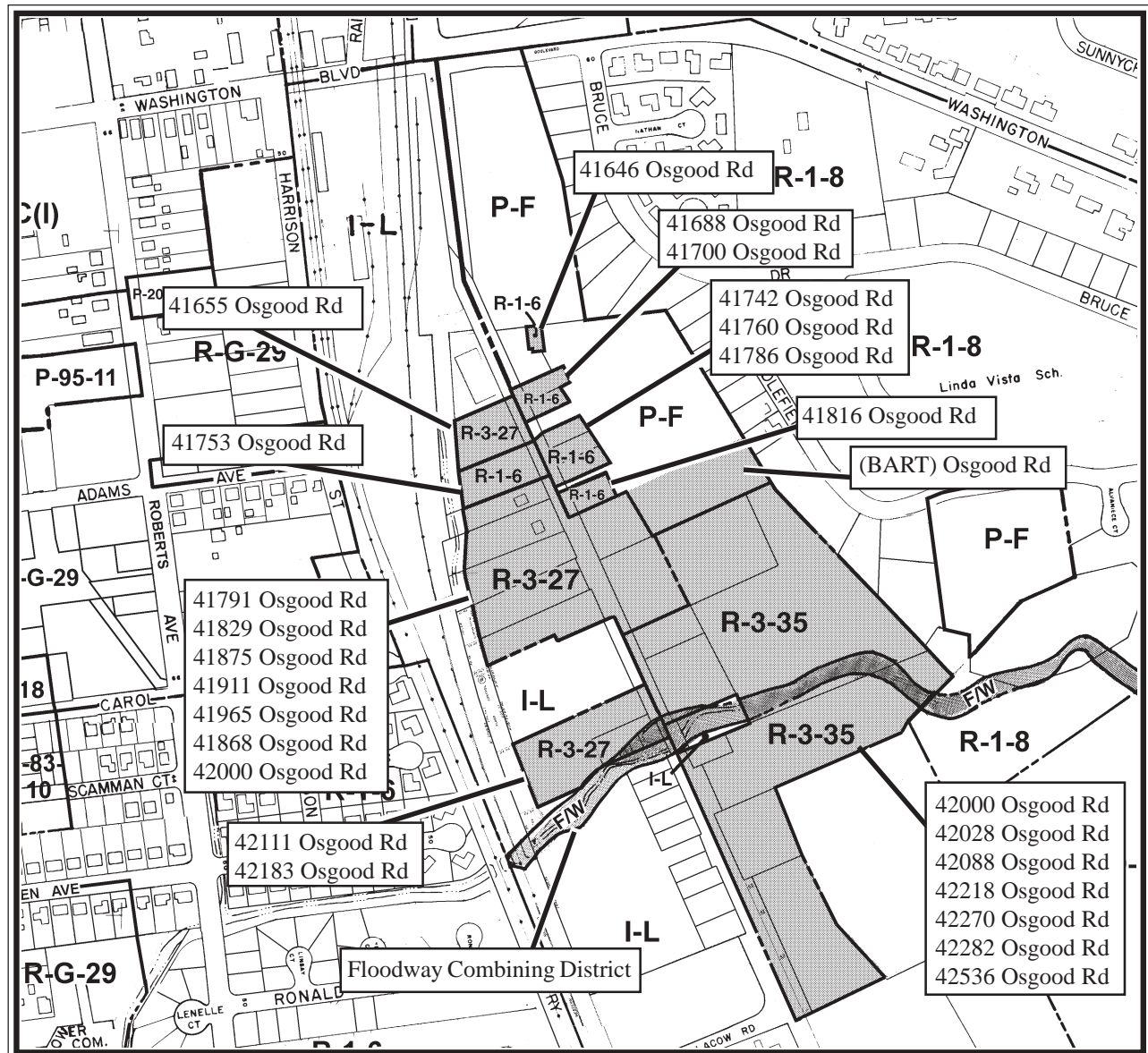
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 04.

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE IRVINGTON PLANNING AREA



From: I-L & C-G

To: R-1-6, R-3-27, R-3-27(F-W), R-3-35, R-3-35(F-W) & P-F

Project Name: Housing Element Implementation Program #19

Project Number: PLN2004-00279 (Rez)

BT

EXHIBIT "A"

Attached to and made a part of

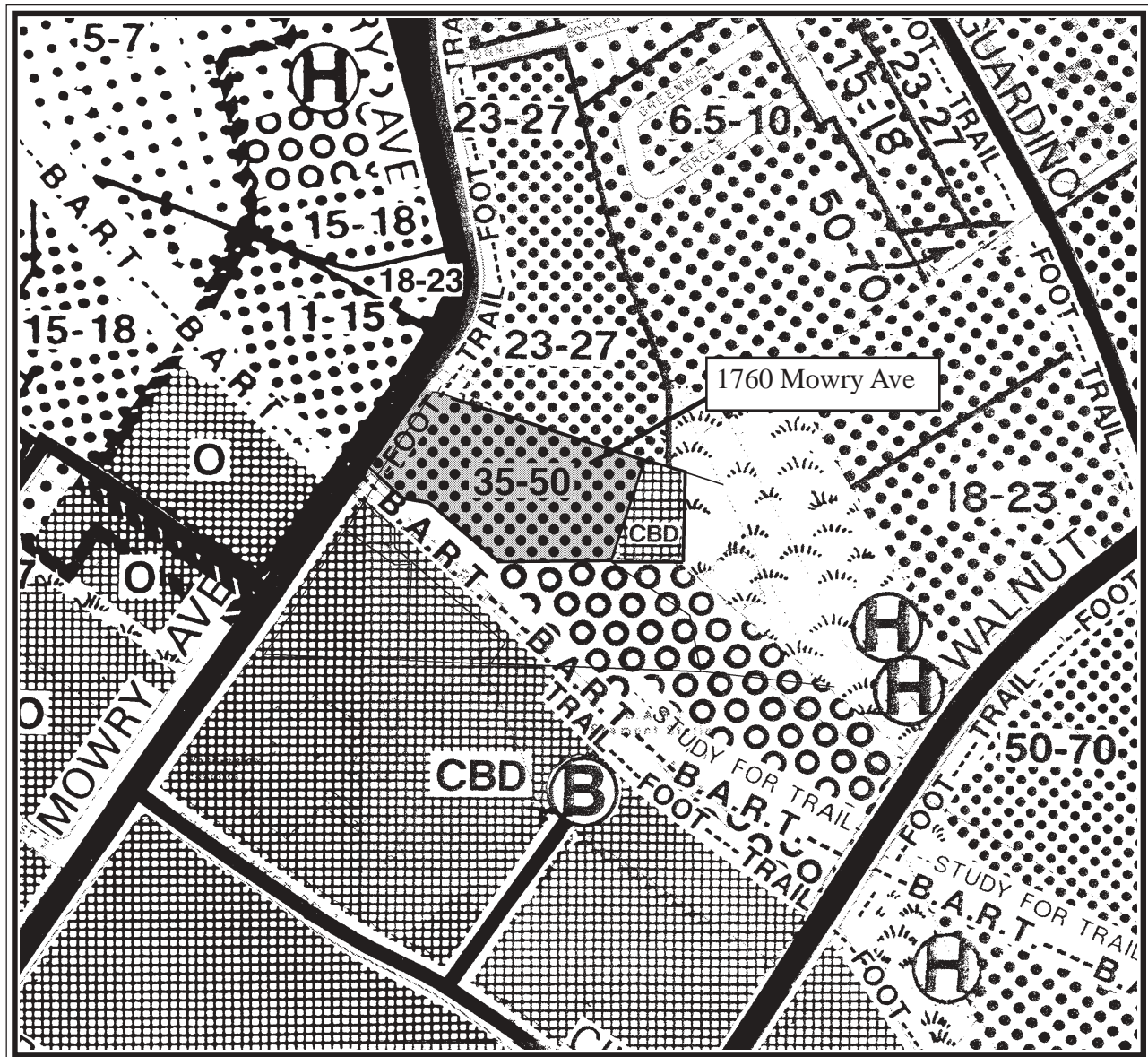
Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20 04** .

GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



From: CBD Commercial, Foot Trail & Public Facility

To: Residential, High 35-50 du/ac, Foot Trail

[pc on 06-10-04] 66-388, 72-388

Project Name: Housing Element Implementation Program #19

Project Number: PLN2004-00280 (GPA)

BT

EXHIBIT "B"

Attached to and made a part of

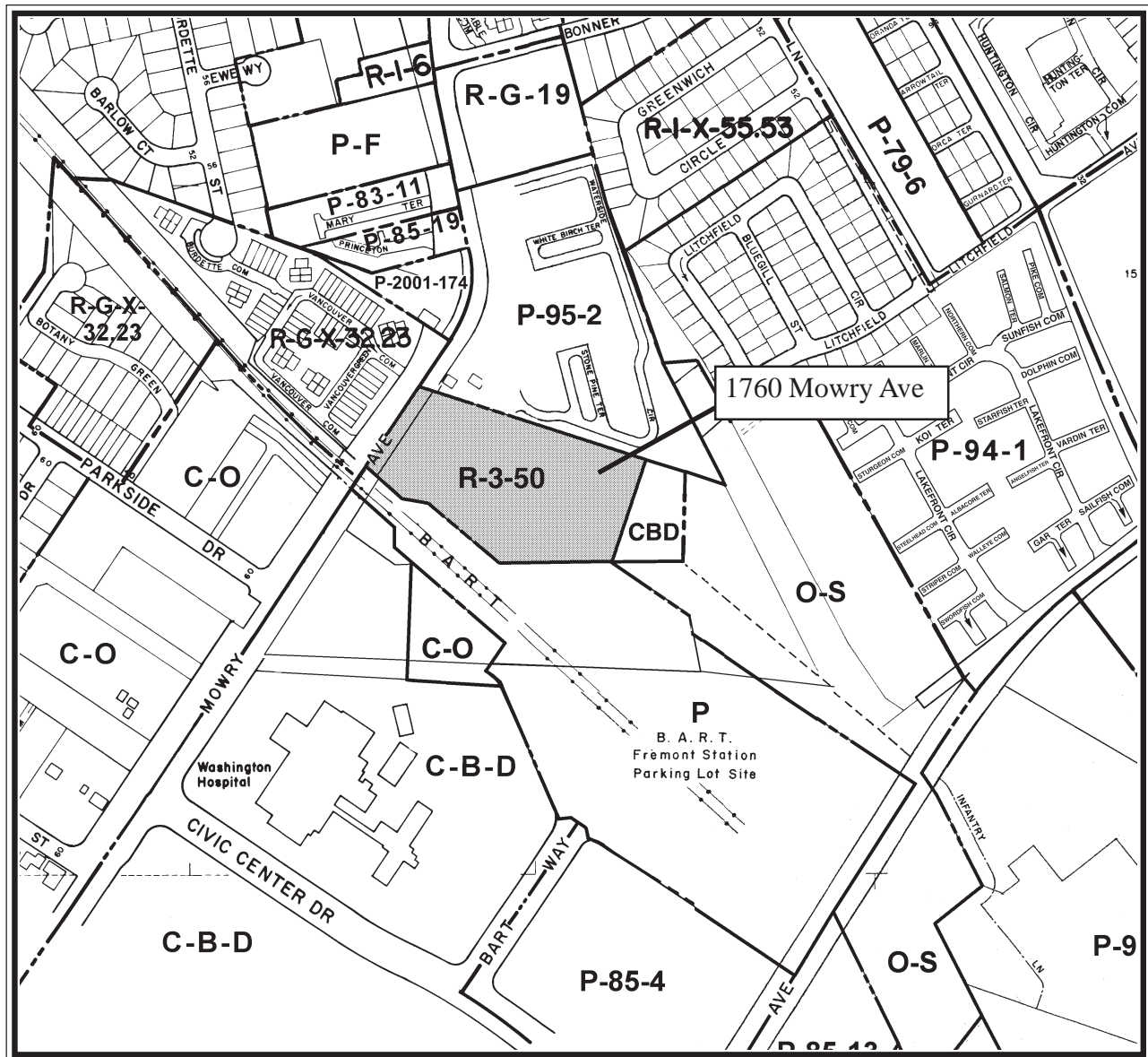
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 04.

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE CENTRAL PLANNING AREA



From: CBD & O-S

To: R-3-50

[pc on 06-10-04] 66-388, 72-388

Project Name: Housing Element Implementation Program #19

Project Number: PLN2004-00280 (Rez)

BT





Scale
1:3600
1"=300'

Date: June 16, 2004